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TO : EUR - Mr. Kohler
THROUGH: S/S
FROM : IER - Roger Hillman
SUBJECT: Analysis of Thompson-Gromyko Talks

Attached are two copies of an analysis, which you requested, of the Soviet negotiating position in current Moscow talks on Berlin and Germany.

Because this report is based on "eyes only" material, I am asking S/S to handle further distribution to: S/S - Mr. Bohlen, S/P - Mr. Bastow, GMR - Mr. Hillenbrand, SOV - Mr. Guthrie, and The White House - Mr. Bundy.

Attachments:
As noted.

DEPARTMENT OF STATE A/CDC/MB

REVIEWED BY [Signature] DATE 1/17/90

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The Soviet Foreign Minister began his discussion of January 12, 1962 with the U.S. Ambassador by putting forward a position known to be unacceptable to the Western Powers. In this connection, he handed to the U.S. Ambassador the text of his opening statement together with the text of a proposed Statute of a Free Demilitarized City of West Berlin and the text of a proposed Protocol of Guarantees on the Status of a Free Demilitarized City of West Berlin. The present memorandum is intended to record and amplify the opening remarks of the U.S. Ambassador in his meeting of (insert date) with the Soviet Foreign Minister.

It would be well to eliminate one subject on which it is obvious from the outset that no meeting of minds is possible. The Soviet proposal for a single power treaty with the East German regime and the Federal Republic, or with the East German regime alone, is not acceptable to the Western Powers. We believe that any action which attempts formally to legitimize the division of Germany would be a serious mistake, even from the Soviet viewpoint. Further the Soviet Union is known to hold other views and it is clear from the public actions of the Government of the Soviet Union living with these situations and do not expect the Soviet Union to change it. The entire MEMO portion is

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RSB-M-62-11
January 26, 1962

THOMPSON-GROMYKO TALKS, JANUARY 12, 1962:
ANALYSIS OF SOVIET POSITION

Soviet Position

The opening sentence of the "Declaration" presented by Gromyko stated that the USSR considers the Moscow talks a continuation of the recent series of bilateral US-Soviet contacts, apparently beginning with the Kennedy-Khrushchev meeting in Vienna. Indeed, the paper tabled by Gromyko constituted a formal elaboration of the Soviet "sub-maximum" position which evolved in the course of talks held since last September.

The Soviet "package" proposal, committed for the first time to paper,¹ includes a "statute of a demilitarized free city" of West Berlin to be agreed to by an unstated number of parties; a "protocol on guarantees" for West Berlin's free city status to be signed (under one variant) by the four occupying powers; a "special agreement" (no document tabled) pertaining to the disposition of four-power military contingents in West Berlin; "appropriate agreements" (no documents tabled) between the "free city" and the GDR defining the conditions for civilian air and surface travel to the "free city"; and simultaneous "solution" of a number of "other problems," such as suitable formalization and consolidation of existing German frontiers; proper respect for the sovereignty of the GDR; a ban on the acquisition and production of nuclear weapons by the two German states; and a non-aggression treaty between NATO and Warsaw Pact members. The USSR would agree to underwrite West Berlin's "unhindered communications" by fixing the terms of those communications in the statute, provided that the statute could be appended to a subsequent separate peace treaty between the USSR (and other states) and the GDR.

With few exceptions, the components of the agreement on Berlin outlined by Gromyko embodied maximum terms previously advanced, in particular, the "termination" of the occupation regime in West Berlin and its replacement by a demilitarized, neutral, free city; the retention of Allied troops in West Berlin on the condition they are "token contingents" and not occupation forces, they are joined by token Soviet contingents, and their presence is "temporary"; the regulation of civilian traffic, including air traffic, by agreements concluded with the GDR and respecting GDR sovereignty; and the

1. The "protocol" tabled by the Soviets at the Geneva Foreign Ministers' Conference on June 1, 1959 pertained only to "guarantees" for West Berlin's free city status.

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prohibition in the free city of activities or propaganda "hostile" to any (i.e., the GDR) state. The only "concessions" specifically offered in the proposals tabled were the provision that the four powers would themselves control the movement of military shipments and personnel of their token contingents in West Berlin, and the apparent failure to demand that the GDR be a party to agreements signed by the three Western Allies.

Furthermore, Gromyko in effect dismissed or disputed all the points raised by Ambassador Thompson during their first meeting on January 2. Gromyko did so in more or less the same terms he had used in his talks last fall with President Kennedy and Secretary Rusk.

In contrast, however, to this surface rigidity, Gromyko was carefully noncategorical with respect to several key points, namely:

- (1) The international access authority. The declaration rejected a corridor arrangement as creating a "state within a state." It did not however, reject the international authority idea but rather opposed "any agreement which would damage the GDR's sovereignty."
- (2) A "free city" of West Berlin. The declaration did not state that the USSR would accept nothing else but "free city" arrangement. It stated merely that "under existing conditions there is no better basis for agreement."
- (3) Soviet troops in West Berlin. The declaration specified merely that if Western troops remain, the "Soviet Union ought also to have analogous rights."
- (4) Recognition of the GDR. Gromyko avoided any mention of recognition, referring only to the need for "respect" for the GDR's sovereignty. Gromyko remained deliberately vague as to what this term means.

Gromyko's apparent lack of reaction to the allusion to West Berlin's integration in the FRG and FRG troops in West Berlin may prove significant. He was either unprepared for the point (and will therefore raise it at a later session) or is not adverse to steering the entire Berlin issue into a German context. In this connection his reference to West Berlin and the access routes being the property of "the German people" is a rather unusual allusion for a Soviet negotiator (and is already being reflected widely in the GDR's own propaganda line).

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The Ambassador has refrained during the present discussions from putting forward the Western position in the all-German field because ^{he} continues to assume that the Soviet ^{Government} recognizes that no meeting of minds is possible on a peace treaty and that the Soviet ^{Government} is prepared to take this into account.

As to the Soviet free city proposal contained in the Soviet memorandum and attached documents, it is surprising that this should have been proposed since it has so often been rejected by the West. The U.S. Ambassador will hand to the Soviet Foreign Minister, along with the present memorandum a paper setting forth Western proposals on an appropriate arrangement for Berlin.

The preferred Western position is that Berlin should be considered as a whole. It is illegal and contrary to the basic four-power agreements on Berlin that the Western Allies should be asked to deal with only a part of the city.

The question of the city will be discussed again on April 12, 1961, and subsequent, West German action in getting off the city has made it clear that the Western Allies will not accept the proposed division of Berlin. It is also clear that the Western Allies will continue to maintain an all-Berlin position that the city is a single entity. The city in itself has considerable importance in the possible even in negotiation. The question inevitably arises here, in view of the Soviet attitude of the right to make

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make complete disposition of East Berlin regardless of the views of the Western Allies, they can claim to assert an interest in West Berlin. The Western Powers are being asked to discuss their interests while the Soviets claim immunity from any discussion of East Berlin or East Germany.

The Soviets seem to maintain that the Western Powers must start from the assumption that existing arrangements will end in West Berlin and that, unless this is accepted, agreement is impossible. This amounts basically to a demand that the Western Powers give up their position while the Soviets maintain and improve the essentials of their position. This is clearly unacceptable. It cannot be reconciled with the thesis of mutual respect of existing positions. The Western Powers have never negotiated with the Soviet Union on occupation rights, but on the exercise and implementation of those rights. They cannot accept that the basis for negotiations must be their prior willingness to renounce such rights.

It is assumed that the Soviet Government proceeds from the principle that great powers should be expected simply to accept the position of the other powers. If the Soviet Government is not prepared, as seems to be the case, to negotiate on an all-Berlin basis, they cannot expect the West should be expected to discuss the Soviet position.

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proposed to establish as a so-called "free city" only part of Berlin. This, despite verbal assurances, would represent a substantial repudiation of the position which the Western Powers have consistently maintained during numerous exchanges and discussions with the Soviet Government since November, 1958. The Soviet proposal would apparently involve the abrogation of Western rights which cannot in fact be abrogated in this way. Having attempted to dispose of East Berlin without Western concurrence, the Soviet Government appears to be seeking a basis on which it could interfere in the affairs of West Berlin. This proposal would deprive the West Berliners of the essential protection they now enjoy. It would deprive West Berlin of its necessary and legitimate links with the West and would make its contacts with the rest of the world subject to the whim of the East German Government. There can be no question but that the people of West Berlin oppose the concept of a "free city." If there is any doubt in any country on this point, the thousands of ~~refugees~~ ^{could be} ~~properly supervised~~ ^{properly supervised} ~~people~~ ^{people} in West Berlin would be able to establish an independent ~~government~~ ^{city} of Berlin. A viable, independent city, but this would be for a portion of the city.

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is obviously the critical point at issue, would be the means of assuring free access to and from West Berlin. The rather abstract Soviet approach can lead nowhere because the positions and principles of the two sides are too far apart. If, as the Foreign Minister has himself at times suggested, a more practical approach is tried, it is clear that the question of access is the most important and embraces various issues to which the Soviet Government attaches importance (e.g. respect for GDR sovereignty¹). In this connection, the U.S. Ambassador has put forward the suggestion for an International Access Authority. The Soviet Foreign Minister has said this is inconsistent with the "sovereignty of the GDR."² Perhaps there is some element of misunderstanding here. The Soviet Government appears to be overlooking the following basic facts:

- a. West Berlin and Western access thereto are not subject to any Soviet occupation rights.
- b. There is no way by which the Soviet Union can confer on East Germany rights which it does not have.
- c. The Soviet Union cannot, therefore, insist, as it does, that the Soviet Union is the only power in Berlin and that it is prepared to discuss how Western access to Berlin can be guaranteed as to not be inconsistent with the West German position but not how these rights are to be handed over to their authorities.

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West Berlin ^{Soviet Zone} has never been part of the ~~German Democratic Republic~~. No

treaty between the Soviet Union and East Germany can, therefore, terminate the occupation rights of the Western Powers. The question may further be asked why, if the Soviet Union has in mind an agreement with respect to the Western position in West Berlin, so much importance is attached to the distinction between such an agreement and occupation rights. The conclusion might be drawn that this is because the Soviet ^{Government} believes that, in some way, the rights under such an agreement would be less securely based than occupation rights. It is ^{suggested,} ~~immediately suggested,~~ therefore, that since the Soviet ^{Government} understands that the Western Powers are not prepared to abandon their rights in, and access to, West Berlin, ~~discussion~~ of the basis of these rights is unnecessary and need not cause difficulties.

expression

✓ The Soviet Union has frequently used the ~~expression~~ ^{expression} "respect for the sovereignty of the GDR", which needs to be clarified. In this connection, on January 2 the Soviet Foreign Minister took exception to what was said regarding the ~~fact~~ ^{fact} and ~~in~~ ⁱⁿ ~~fact~~ ^{fact} recognition of East Germany by citing ~~the~~ ^{the} ~~fact~~ ^{fact} of the existence of certain countries with ~~the~~ ^{the} ~~same~~ ^{same} ~~relations~~ ^{relations}. Similarly, the Soviet Foreign Minister ~~has~~ ^{has} ~~in~~ ⁱⁿ ~~fact~~ ^{fact} the U.S. has already recognized East Germany. This suggests that what the Soviet Foreign Minister has in mind is that the Western Powers not act as if they deny

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the existence of East Germany, as indeed they do not. Since the Soviet Foreign Minister and Chairman Khrushchev have emphasized the factual situation, no problem should arise from the inability of the Western Powers to accord some kind of formal de jure or de facto recognition which would go beyond that factual situation. On "respect for the sovereignty of the GDR" as it relates to Berlin access, it is understood that the Soviets wish to ensure that access rights do not in fact interfere with authority for life in East Germany. This creates no problems for the Western Powers because they do not wish to interfere what is required is access which is not interfered with by East Germany. There are numerous cases in which means of transit across territory or through air space are used without any interference in the affairs of the territory traversed. It would be useful to accept as a point of departure the concept that guaranteed access would not interfere with the affairs of East Germany, and that East Germany would not interfere with freedom of movement.

Out of possible disagreements between the U. S. Secretary of State and the Soviet Foreign Minister there emerged, if not the substance of a possible arrangement in Berlin, at least the possible outlines of a framework within which the possibility of such an arrangement could be further explored. At the same time the Soviet

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Foreign Minister seemed to understand that the Western Powers could not recognize the so-called "GDR" either de jure or de facto. He also seemed to recognize, therefore, that the basic arrangement must be between the Soviets^{Union} and the Western Powers and not between the latter and the "GDR". The Secretary of State, however, stressed that the Western Powers have certain vital interests in Berlin which must be respected. On the other hand, the Soviet Foreign Minister placed emphasis on the ending of the occupation and the creation of a new status in Berlin. The question naturally arose whether against the background of these substantive positions any acceptable arrangement could be reached.

As noted previously, a key point in the present context is the question of Berlin access. This is the point at which danger seems to threaten and on which unilateral action by one side could have far-reaching results.

The Soviet Government wishes to introduce some changes in the present position with regard to access. In response to the Soviet request, the U.S. Government is studying the Soviet proposals.

Naturally the results must not lead to a deterioration in the Western position and result in the Soviet Government making changes, the burden of which will be placed around with the Western industrialists rests with

It should be noted that the International Access Authority would not

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run counter to the procedure which the Soviet Foreign Minister in the first talk described as consistent with East German "sovereignty", namely, that agreement between the four occupying powers should subsequently be ^{respected} ~~maintained~~ by East Germany in an arrangement between it and the Soviet Union. The Access Authority would provide a solution to the problem which would be compatible with the interests of all parties concerned and remove a standing source of dispute between them. It need be no more inconsistent with "sovereignty" than any international transit arrangement such as those established under the Montreux Convention or overflight provisions of the International Air Service Agreement are with the "sovereignty" of the areas concerned. There is attached a paper summarizing the concept of an International Access Authority. If the Soviet ^{Government} ~~Government~~ pursue this matter further, the ^{U.S.} ~~Western~~ Ambassador ~~Western~~ would be glad to provide a draft of a possible agreement.

The Soviet ^{Government} ~~Government~~ should be expected to confirm Western occupation rights. Confirmation of these occupation rights is not being requested ~~by the Western Powers~~ ^{by the Western Powers} but the Western Powers ^{are aware of the facts of the situation, of the} ~~are aware of the facts of the situation, of the~~ ^{could be worked out} ~~could be worked out~~ ^{to deal with any problems involved,} ~~to deal with any problems involved,~~ If it ^{is} ~~is~~ to be the case, that both sides have an overriding interest in avoiding a collision over Berlin, then it is only reasonable

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reasonable to expect that both sides will be willing to concentrate on those areas where at least some working arrangement might be possible.

To avoid any misunderstanding, the following needs to be understood concerning the Western sectors of Berlin. These sectors are an area in which supreme authority continues to be exercised by the three Western Powers. The relationship which has grown up between the Federal Republic and Berlin in various areas of activity has been on a permissive basis subject to this authority. While the Constitution of the Federal Republic provides that West Berlin is a Land of the Federal Republic, by virtue of suspension of the pertinent articles of the Basic Law in 1949 this portion of the Constitution is inoperative in Berlin. One of the effects of the termination of the Western occupation would automatically be to end the suspension of those articles of the Basic Law referred to above. The logical response to the Soviet unilateral action directed toward incorporation of East Berlin into East Germany would have been incorporation of West Berlin into the Federal Republic. However, the Western Powers have refrained from taking this action because it would not contribute to the achievement of a mutually acceptable arrangement under the Four Big Powers.

It is the policy of the Western Powers toward mutually acceptable agreement, not to take any action which would be such that the essential condition to such an agreement would be the full acceptance of the position. This is

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incompatible with the concept of free negotiations between equal states. A systematic effort must be made to find points on which there is some possibility of progress. The situation is undoubtedly a serious one. The question is whether a basis can be found for negotiations in the usual sense, or in event of serious and continuing disagreement, whether the factual situation can be handled without a war which would be devastating to both sides.

With reference to the Soviet emphasis on the necessity of discussing so-called "basic questions," the United States Ambassador would like to observe that every subject can obviously not be discussed simultaneously. Initial emphasis has been placed on Berlin access for the reasons indicated. The United States will be prepared to discuss other subjects, but what it would be prepared to say on them will depend to a great extent on the reasonableness of the Soviet position on Berlin.

It is hoped that the Soviet Government will give careful consideration to the arguments presented herewith, that it will reflect upon the situation which its position is creating, and that further discussions will reflect more appropriately the importance of the arguments which have been presented.

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